IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 169 OF 2007

Smt. Vidya Vishnu Bhoir ..Applicant
V/s
The State of Maharashtra ..Respondent.

Mr. P.M. Pradhan, Sr. Advocate with Mr. A. R. Pitale, Advocate for the applicant

Mr.U.V. Nikam, APP for the State.

CORAM : J.H. BHATIA, J.
DATE : 12TH FEBRUARY, 2007.

P.C.

. Heard Mr. P.M.Pradhan, learned Sr. Counsel for the applicant and Mr. Nikam, learned APP for the State. Perused police papers.

2. The prosecution case, in brief, is that deceased Nalini used to live with her aunt Suman for the purpose of education. Bhagwan Malu Vishe and Suman B. Vishe did not have any child. They used to call the present applicant, who is said "Bhaktin" or "Black Magician" to their house. On 30/9/2006 they along with Nalinee went to the house of the present applicant and allegedly some magic was played and she was injured. Thereafter, she died. Initially, uncle and aunt of Nalinee had given message that because of shock with mobile charger she

had suffered injury and had died. She was taken to Dr. Badiye, who had examined and declared her dead. On the same day, the body was taken away by her father Khandu Patil and the body was cremated. Thus, post mortem examination was not conducted on the dead body and cause of death is not known.

3. According to the prosecution, on 3/10/2006 Khandu Patil made a complaint to the police alleging that as per the information collected by him Naleeni was taken by her uncle and aunt to the present applicant and she was sacrificed possibly because the couple did not have a child. After that statement of Dr. Badiye was recorded. He confirmed that there was some injury on the back of deceased but he did not speak about any serious injury to her. On 20/11/2006 Khandu Patil lodged another report which came to be registered as FIR and crime No.222/2006 came to be registered at Shahapur Police Station under Sections 302 and 201 r/w Section 34 of Indian Penal Code.

4. The applicant claims to be innocent. He had filed application for bail before Additional Sessions Judge, Kalyan. However, that application was rejected

on 11/12/2006 on the ground that the investigating officer wanted to carry out Narco test of the present applicant. Learned APP concedes that so for the investigation officer has not made any attempt to hold Narco Test nor he has addressed any letter to the concerned authorities for that purposes. It is also conceded that not a single witness is examined by the investigating officer, who would support the allegations made in the report lodged by Khandu Patil. Post mortem was not conducted. No injury certificate was collected. In these circumstances, case does not go beyond suspicion expressed in the complaint made on 31st October, 2006 or in the FIR registered on 20th November, 2006. In fact, it appears that after rejection of the bail application, investigating officer did not make any further investigation in the matter. Hence there is no justification to refuse the bail to the present applicant.

5. Applicant be released on her executing P.R. of Rs. 25,000/- with solvent surety in like amount with conditions that she shall not tamper with the prosecution evidence. After release on bail she shall report at Shahapur Police Station on every alternate

Monday till the end of the trial.

(J.H. BHATIA, J.)